



THE ROLE OF SUPREME COURT IN RECOGNITION OF RIGHT TO FOOD AS A FUNDAMENTAL RIGHT

Prof. Jayashree Khandare

ABSTRACT

Food is the basic needs of the people to survive. Today around more than 1 billion people of the world's population is hungry. Such high levels of hunger restrict the social and economic development of the country and are a threat to global peace and security. Despite these high figures and their impact on development, food security has not been at the top of the agenda. Efforts to ensure food security have been uncoordinated and resources for agriculture which forms the basis of people's livelihoods – have been declining.

KEY WORD: Food Security, Role of judiciary, Supreme Court.

“Everybody talks about population growth and its disastrous effect on climate change, food security and resource depletion, but nobody does anything about it”

-Phil Harding

Introduction

India is considered every bit one of the powerful countries in the globe. But in India more than one-third population is reckoned to be the most wretched of the inadequate. Where attaining food security is the most important issue in India. Many children have suffered from malnourishment and starvation death. Several important publications have come out in the context of food security in India. These have been;

- The liberalization of the economic system and its impact on farming and food security;
- The formation of WTO and the agreement on Agriculture;
- Climate change and its impact on food production and prices;
- The prevalence of hunger and poverty coexisting with high levels of food stock;
- The unveiling of the Targeted Public Distribution System
- The 'Right to Food' campaign; and
- The National Food Security Bill.

On the one hand, the growth of the food processing industry by leaps and bounds providing variety of foods and on the other hand getting adequate food has remained an illusion for millions worldwide. The most vulnerable groups are children and women, especially pregnant and lactating mothers and elders who are unable to earn their food on their own. The problem of food insecurity is prevalent in almost all countries of the world.

Hence right to adequate food forms the basic human right of every individual which is also recognized through Article 25 of the Universal Declaration of Human Rights (1949). The evolution of the right to food is derived from the larger human right to an adequate standard of living contained in the 1948. India is an active member of the United Nations and is a state party to International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR has adopted an analytical framework for the description of the obligation to respect, protect and fulfill the right to food for every citizen of India.

For human existence a society should be based on human right, knowledge and information and strong legal system can be said to be just and fair to make provision for basic human rights of an individual. All prominent legal thinkers from Locke to Finnis everyone have always stressed the importance of such rights. Out of all, right to food is the bedrock of human sustainability.

Enjoyment of the right to food is contingent upon the realization of the right to education and the right to work as well. Poor health, and the low education and skill development, in turn, limit access to decent work that is safe and provides incomes above the poverty level. Paradoxically, while global per capita food production has risen to unprecedented levels, hunger remains a pervasive reality in the world today: 925 million of the world's nearly 7 billion people are undernour-

ished (UN Food & Agriculture Organization 2010) and someone in the world is dying of hunger or its complications every several minutes of every day. This paper offers a comprehensive overview of the evolution of the right to food in international law and analyzes actors affecting progress towards respecting, protecting, and fulfilling the right to food at the international and national levels.

Definition of right to food

The Right to food is an inclusive right. It is not simply a right to a minimum ration of calories, proteins and other specific nutrients. It is a right to all nutritional elements that person needs to live a healthy and active life, and to the means to access them.

The Supreme Court and Right to food

The Indian Constitution does not expressly recognize the right to food as a fundamental right. However, comparable human right provisions are found in the articles of the Fundamental Rights as well as the Directive Principles of State Policy. Article 21 of the Indian Constitution provides the fundamental right to the protection of life and personal liberty. This article 21 mandates the state to ensure the right to life of citizens. This includes the right to live with dignity with at least two decent meals a day. BhagwatiJ, beautifully stated that right to life includes the right to live with human dignity which include adequate nutrition, clothing and shelter.

Today, the directions issued by the Supreme Court are one of the major components for implementing right to food. In brief, the intervention of the court had three major impacts:

- It converted the benefit of the eight nutrition-related schemes into legal entitlements;
- It directed all state Governments to begin providing a cooked mid day meal for all children in government assisted schools, and
- It directed State and Central Government to adopt specific measures to ensure public awareness and transparency of these schemes/programmes.

In *Keshwanand Bharati v. State of Kerala*, Mathew J. observed that the object of the people in establishing the Constitution was to promote Social and economic justice. The modus operandi to achieve these objectives are set out in Part III and Part IV of the constitution. While discussing the other aspects he observed that, “freedom from starvation is an important as the right to life.”

In *Dena Nath vs. National Fertilizers Ltd.*, the court observed that the enforcement of the provision to establish a canteen in very establishment under section 16 is to supply food to workmen at the subsidized rates as the right to food is a basic human right.

In *Francis Coralie Mullin vs. Administrator Union Territory of Delhi*, the court held that right to life means the right to live with basic human dignity and all that goes along with the bare necessities of life such as adequate nutrition, clothing, shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freedom are part of the right to live with human dignity and they are components of the right to life.

In *Olga Tellis & Ors. Vs. Bombay Municipal Corporation & Ors.*, the court held that the sweep of the right to life conferred by the Article 21 is wide and far reaching. If the right to livelihood is not treated as a part of the right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means

of livelihood to the point of abrogation. The court also observed that persons have to eat to live.

In *Shantistar Builders vs. Narayan Khimalal Totame*, the court held that basic need of man have traditionally been excepted to be three i.e. food, clothing and shelter.

In *Peerless General Finance and Investment Co. Ltd. Vs. Reserve Bank of India* Court held that Article 21 protects the right to life. It guarantees and derives there from the minimum needs for existence including a better tomorrow.

In *Chameli Singh & Ors. v. State of Uttar Pradesh & Anr*, the court interpreted Article 21 in the following manner "Right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter". These are the basic human right know to any civilized society.

In *Kishen Pattanayak & another v. State of Orissa* the letter by the social worker was considered as the writ petition by the Supreme Court. It was mentioned in the petition that the people of Lalahandi and district of Orissa are so poor that in order to survive and to get food they are forced to sell off their land and they are even selling their children. It was mentioned that there are many people dying due to hunger there. The court made enquires and found that the government has taken measures to tackle this problem but the court gave direction for formation of committees and holding of meetings in every two months.

In *Paschim Banga Khet Mazdoor samity v. State of Bengal* that preservation of human life is of paramount importance. State cannot avoid their constitutional obligation in that regard on account of financial constraints.

A landmark judgment was given by the Supreme Court in *Peoples Union for Civil liberties v. Union of India*. A human right organization, PUCL, in April 2001 filed a petition in the Supreme Court for relief after several states in the country faced their successive year of drought and, despite having more than 60 million tons of stock failed to make available the minimum food requirement of the vast drought- stricken population. In a situation of "plenty" the Supreme Court States, a situation of scarcity was inexplicable.

In *Kapila Hingorani vs. State of Bihar* the court held that lack of access to food is in violation of the human right to food and issued various directives to ensure that no starvation deaths occurs.

Conclusion

In this article, researchers sought to review the legal framework taken by India in realizing the right to food of their vast populations. Set up on the comparative analysis undertaken here, a few observations can be made. First, although India is party to several international instruments providing for the right to food, India has taken steps to put in place a legislative framework to implement the right to food. The international human rights law regarding the right to food relies largely on National action for the implementation⁷ and it is important for nations give shape to this right through internal plans.

"Food Security is not a product, but a process"

-Bruce Schneier

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